IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

&

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

LA.App..No. 252 of 2005()

LAR.60/1999 of SUB COURT, MANJERI

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APPELLANT: 2ND RESPONDENT

KERALA STATE INDUSTRIAL DEVELOPMENT
CORPORATION, TRIVANDRUM, REP. BY ITS SECRETARY.

BY ADV. SRI.G.S.REGHUNATH

RESPONDENTS: CLAIMANT & 2ST RESPONDENT

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1. PEEDIKAPARAMBAN ABOOBACKER,
S/O.MOHAMMED ALI, HAJIYARPALLY, MALAPPURAM.(DIED)

2. THE DISTRICT COLLECTOR,
MALAPPURAM.

LEGAL HEIRS OF R1 IMPLEADED (ADDL.RESPONDENTS)

3.TACHU PANDARATHODI, AGED 50 YRS., W/O.P.P.ABOOBACKER,
HAJIYARPALLI, MALAPPURAM DIST.

4.MUHAMMED P.P., S/O.P.P.ABOOBACKER,
HAJIYARPALLI, MALAPPURAM DIST.

5.P.P.SAFIYA, W/O.ABULLAIS,
HAJIYARPALLI, MALAPPURAM DIST.

6.RAMLA P.P., W/O.HAMZA,
HAJIYARPALLI, MALAPPURAM DIST.

7.ABDUL RAHMAN P.P., S/O.P.P.ABOOBACKER,
HAJIYARPALLI, MALAPPURAM DIST.

8.AMANULLA P.P., S/O.P.P.ABOOBACKER,
HAJIYARPALLI, MALAPPURAM DIST.(ADDL. RESPONDENTS IMPLEADED AS PER ORDER DT. 7.11.2005 IN I.A.3401/05.)

BY GOVERNMENT PLEADER SRI.K.V.MANOJKUMAR.
SRI.BABU S. NAIR

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 15/10/2007, ALONG WITH LAA 530 & 1223/05 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A.NO.680/05 IN L.A.A.252/05

DISMISSED

15.10.2007. SD/- KURIAN JOSEPH, JUDGE.

SD/- HARUN-UL-RASHID, JUDGE.

TGS

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.252, 530 and 1223 of 2005

Dated 15th October, 2007.

J U D G M E N T

Kurian Joseph, J.

These are appeals filed by the requisitioning authority against the judgment and decree in LAR Nos.60/99, 50/99 and 49/99 respectively on the file of the Sub Court, Manjeri. The acquisition is for the purpose of Industrial Growth Centre at Panakkad. It is an acquisition of about 250 acres of land. The Land Acquisition Officer fixed the land value at Rs.2,311/- per cent in LAR 60/99 (LAA 252/05), which has been enhanced to Rs.3,750/- by the reference court. In LAR 50/99 (LAA 530/05), the Land Acquisition Officer fixed the value at Rs.2,311/- per cent, which has been enhanced to Rs.4,000/- per cent by the reference court. In LAR 49/99 (LAA 1223/05), the Land Acquisition Officer fixed the land value at Rs.2,311/- per cent, which has been enhanced to Rs.4,000/- per cent.

2. Learned counsel for the appellant submits that the reference court has not properly appreciated the factual matrix and the evidence available on record while fixing the land value. It is also contended that in respect of larger extent of land, the reference

court should not have fixed the land value uniformly. We are afraid, the above contentions cannot be appreciated. On the part of the claimants Exts.A1 to A5 documents were produced. Aws.1 to 4 were also examined. The court found that the land covered by the basic document relied on by the Land Acquisition Officer is only barren land whereas the acquired property is fertile land. The property covered by Ext.A3 is executed in 1987 and the value therein is Rs.3,500/- per cent. In this case, Section 4(1) notification is dated 14.9.1995. There is also a report of the Advocate Commissioner. Nobody was examined on the side of the respondents. Therefore, taking note of Ext.A3 executed in 1987 as an indicator wherein the land value per cent is Rs.3,500/-, seven years prior to the notification, the reference court fixed the land value at Rs.4,000/- per cent in cases where the property is near to the tarred road (LAR 49/99 and 50/99), and proportionate to the distance from the tarred road, the value has been reduced and thus in LAR 60/99, the land value is at Rs.3,750/- per cent. The contention that when larger extent is involved, the land value should have been reduced cannot be appreciated in the absence of evidence on the part of the State

or requisitioning authority to establish the same with regard to the nature and lie of the property. On the contrary, it has come out in evidence that the acquired property is fertile land and is nearer to the tarred road. It is also not in dispute that the property is not very far from Malappuram town. In fact, this court has already dismissed appeals, LAA 195/05 and 200/05, filed against LAR Nos.62/99 and 63/99, the two other cases in the common judgment under appeal. In view of the nature and lie of the property, importance of the locality and the proximity of the property to the tarred road, and in view of the stand already taken by this court in LAA 195/05 and 200/05, we do not find any merit in these appeals. They are accordingly dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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